

modification of the underlying or original support order or resolution of custody or visitation disputes); and does not delay implementation of withholding beyond the timeframes established in paragraphs (e)(2) and (e)(3) of this section.

(ii) Within 20 calendar days of a determination that withholding is required in a particular case, and, if appropriate, receipt of any information necessary to carry out withholding, the initiating State must notify the IV-D agency of the State in which the noncustodial parent is employed to implement interstate withholding. The notice must contain all information necessary to carry out the withholding, including the amount requested to be withheld, a copy of the support order and a statement of arrearages, if appropriate. If necessary, the State where the support order is entered must provide the information necessary to carry out the withholding within 30 calendar days of receipt of a request for information by the initiating State.

(iii) The State in which the noncustodial parent is employed must implement withholding in accordance with this section upon receipt of the notice from the initiating State required in paragraph (f)(3)(ii) of this section.

(iv) The State in which the noncustodial parent is employed must notify the State in which the custodial parent is receiving services when the noncustodial parent is no longer employed in the State and provide the name and address of the noncustodial parent and new employer, if known.

(4) The withholding must be carried out in full compliance with all procedural due process requirements of the State in which the noncustodial parent is employed.

(5) Except with respect to when withholding must be implemented which is controlled by the State where the support order was entered, the law and procedures of the State in which the noncustodial parent is employed shall apply.

(g) *Provision for withholding in all child support orders.* Child support orders issued or modified in the State whether or not being enforced under the State IV-D plan must have a provision for withholding of income. This re-

quirement does not alter the requirement governing all IV-D cases in paragraph (a)(4) of this section that enforcement under the State plan must proceed without the need for a withholding provision in the order.

[57 FR 30682, July 10, 1992, as amended at 64 FR 6251, 6252, Feb. 9, 1999; 68 FR 25304, May 12, 2003]

**§ 303.101 Expedited processes.**

(a) *Definition.* *Expedited processes* means administrative and judicial procedures (including IV-D agency procedures) required under section 466(a)(2) and (c) of the Act;

(b) *Basic requirement.* (1) The State must have in effect and use, in interstate and intrastate cases, expedited processes as specified under this section to establish paternity and to establish, modify, and enforce support orders.

(2) Under expedited processes:

(i) In IV-D cases needing support order establishment, regardless of whether paternity has been established, action to establish support orders must be completed from the date of service of process to the time of disposition within the following timeframes: (A) 75 percent in 6 months; and (B) 90 percent in 12 months.

(ii) In IV-D cases where a support order has been established, actions to enforce the support order must be taken within the timeframes specified in §§ 303.6(c)(2) and 303.100;

(iii) For purposes of the timeframe at § 303.101(b)(2)(i), in cases where the IV-D agency uses long-arm jurisdiction and disposition occurs within 12 months of service of process on the alleged father or noncustodial parent, the case may be counted as a success within the 6 month tier of the timeframe, regardless of when disposition occurs in the 12 month period following service of process.

(iv) *Disposition*, as used in paragraphs (b)(2)(i) and (iii) of this section, means the date on which a support order is officially established and/or recorded or the action is dismissed.

(c) *Safeguards.* Under expedited processes:

(1) Paternities and orders established by means other than full judicial process must have the same force and effect

under State law as paternities and orders established by full judicial process within the State;

(2) The due process rights of the parties involved must be protected;

(3) The parties must be provided a copy of the voluntary acknowledgment of paternity, paternity determination, and/or support order;

(4) Action taken may be reviewed under the State's generally applicable administrative or judicial procedures.

(d) *Functions.* The functions performed by presiding officers under expedited processes must include at minimum:

(1) Taking testimony and establishing a record;

(2) Evaluating evidence and making recommendations or decisions to establish paternity and to establish and enforce orders;

(3) Accepting voluntary acknowledgment of paternity or support liability and stipulated agreements setting the amount of support to be paid;

(4) Entering default orders upon a showing that process has been served on the defendant in accordance with State law, that the defendant failed to respond to service in accordance with State procedures, and any additional showing required by State law; and

(5) Ordering genetic tests in contested paternity cases in accordance with § 303.5(d)(1).

(e) *Exemption for political subdivisions.* A State may request an exemption from any of the requirements of this section for a political subdivision on the basis of the effectiveness and timeliness of paternity establishment, support order issuance or enforcement within the political subdivision in accordance with the provisions of § 302.70(d) of this chapter.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19655, May 9, 1985, as amended at 50 FR 23958, June 7, 1985; 59 FR 66251, Dec. 23, 1994; 64 FR 6252, Feb. 9, 1999; 68 FR 25305, May 12, 2003]

**§ 303.102 Collection of overdue support by State income tax refund offset.**

(a) *Overdue support qualifying for offset.* Overdue support qualifies for State income tax refund offset if:

(1) There has been an assignment of the support obligation under section 408(a)(3) of the Act or section 471(a)(17) of the Act or the IV-D agency is providing services under § 302.33 of this chapter, and

(2) The State does not determine, using guidelines it must develop which are generally available to the public, that the case is inappropriate for application of this procedure.

(b) *Accuracy of amounts referred for offset.* The IV-D agency must establish procedures to ensure that:

(1) Amounts referred for offset have been verified and are accurate; and

(2) The appropriate State office or agency is notified of any significant reductions in (including an elimination of) an amount referred for collection by State income tax refund offset.

(c) *Procedures for contesting offset and for reimbursing excess amounts offset.* (1) The State must establish procedures, which are in full compliance with the State's procedural due process requirements, for a noncustodial parent to use to contest the referral of overdue support for State income tax refund offset.

(2) If the offset amount is found to be in error or to exceed the amount of overdue support, the State IV-D agency must take steps to refund the excess amount in accordance with procedures that include a mechanism for promptly reimbursing the noncustodial parent.

(3) The State must establish procedures for ensuring that in the event of a joint return, the noncustodial parent's spouse can apply for a share of the refund, if appropriate, in accordance with State law.

(d) *Notice to custodial parent.* The IV-D agency must inform individuals receiving services under § 302.33 of this chapter, in advance that, for cases in which medical support rights have been assigned under 42 CFR 433.146, and amounts are collected which represent specific dollar amounts designated in the support order for medical purposes, amounts offset will be distributed under § 302.51(c) of this chapter.

(e) *Advance notice to noncustodial parent.* The State must send a written advance notice to inform the noncustodial parent of the referral for State income tax refund offset and of the opportunity to contest the referral.